

1 **ANDREW A. BAO, ESQ.**
Nevada Bar No. 10508
2 **WOLFE & WYMAN LLP**
980 Kelly Johnson Drive, Ste 140
3 Las Vegas, NV 89119
Tel: (702) 476-0100
4 Fax: (702) 476-0101
aabao@wolfewyman.com
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6 Attorneys for Defendant
SELECT PORTFOLIO SERVICING, INC.
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8 **UNITED STATES DISTRICT COURT**
9 **DISTRICT OF NEVADA**
10

11 MICHAEL KITCHEN,

12 Plaintiff,

13 v.

14 SELECT PORTFOLIO SERVICING, INC.,

15 Defendant.
16
17

Case No.:

State Court Case No.: A-15-727801-C

**NOTICE OF REMOVAL ACTION
UNDER 28 U.S.C. § 1441**

[DIVERSITY OF CITIZENSHIP]

18 **TO THE CLERK OF THE ABOVE-ENTITLED COURT:**

19 **PLEASE TAKE NOTICE** that, pursuant to 28 U.S.C. § 1441, Defendant SELECT
20 PORTFOLIO SERVICING, INC. (“Defendant”) hereby removes to this Court the state court action
21 described below.

22 1. On November 17, 2015, an action was commenced in District Court, Clark County,
23 Nevada, entitled Michael Kitchen v. Select Portfolio Servicing, Inc., as Case No. A-15-727801-C
24 (“State Action”). A true and correct copy of the Complaint by which this action was commenced
25 (“Complaint”) is attached hereto as **Exhibit 1**.

26 2. Defendant was served on or about November 17, 2015. This notice of removal is
27 timely under 28 U.S.C. § 1446(b) because it is being filed within thirty (30) days after Defendant’s
28 notice of a copy of the Summons and Complaint, which is the initial pleading setting forth the claims



1 for relief upon which this action is based, as calculated under Federal Rule of Civil Procedure, Rule
2 6.

3 3. This action is a civil action of which this Court has original jurisdiction under
4 28 U.S.C. Section § 1332 and is one which may be removed to this Court by Defendant pursuant to
5 the provisions of 28 U.S.C. Section § 1441(b) based upon the diversity of the citizenship of the
6 parties. Pursuant to 28 U.S.C. Section § 1332, complete diversity of citizenship exists in that:

7 (a) Plaintiff is a citizen of Nevada;

8 (b) Defendant SELECT PORTFOLIO SERVICING, INC. is a Utah corporation
9 with its principal place of business in the State of Utah. Thus, Defendant is not a citizen of the State
10 of Nevada. (28 U.S.C. § 1348)

11 4. Pursuant 28 U.S.C. § 1332(a), the amount in controversy exceeds the minimum of
12 \$75,000. The Complaint seeks a quiet title and injunctive relief relating to 5551 Toluca Court, Las
13 Vegas, Nevada 89120 (“Subject Property”). Plaintiff attaches an Interest Only Fixed Rate Note
14 regarding a loan totaling \$285,400.00. *See Exhibit A*, Complaint. In actions seeking such equitable
15 relief, the amount in controversy is measure by the value of the object of the litigation. *Cohn v.*
16 *Petsmart*, 281 F. 3d 837, 840 (9th Cir. 2002). The “object” in this action is the Subject Property, the
17 value of which clearly exceeds the \$75,000 minimum. Further, in Plaintiff’s “Pray for Relief”,
18 Plaintiff alleged approximately \$100,000.00 in damages. As such, Plaintiff’s stated damages also
19 clearly exceed the \$75,000.00 minimum.

20 5. Pursuant to 28 U.S.C. Section § 1446(a), removing Defendant filed this Notice of
21 Removal in the District Court of the United States for the District and Division within which the
22 State Action is pending.

23 6. Pursuant to 28 U.S.C. Section § 1446(a), the only available document, known to
24 Defendant to have been filed in the State Action is the Complaint (**Exhibit 1, above**).

25 7. Pursuant to 28 U.S.C. § 1446(d), Defendant will promptly give written notice of the
26 Notice of Removal to Plaintiff and will file a copy of the Notice with the Clerk of the State Court
27 Action.
28

1 8. Defendant reserves the right to supplement this Notice of Removal when additional
2 information becomes available. Defendant further reserves all rights, including, but not limited to,
3 defenses and objections as to venue, personal jurisdiction, and service. The filing of this Notice of
4 Removal is subject to, and without waiver of, any such defense or objection.

5 WHEREFORE, Defendant hereby removes the District Court, Clark County, Nevada, Case
6 No. A-15-727801-C to the United States District Court, District of Nevada.

7
8 DATED: December 4, 2015

WOLFE & WYMAN LLP

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10 By: /s/Andrew A. Bao

ANDREW A. BAO

980 Kelly Johnson Drive, Ste 140

Las Vegas, NV 89119

Tel: (702) 476-0100

Fax: (702) 476-0101

Attorneys for Defendant

**PNC BANK, NATIONAL
ASSOCIATION**

By: /s/ Kathy Hagmaier
KATHY HAGMAIER
An employee of Wolfe & Wyman LLP